

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE

IN RE:)
)
AMERICAN SLEEP MEDICINE, LLC) CHAPTER: 11
Debtor.) NO.:21-02741
) Judge Walker
)
)
)

**MOTION FOR CONTEMPT FOR VIOLATION OF THE AUTOMATIC STAY
PROVISIONS OF SECTION 362(A)**

Comes the Debtor, through counsel, and moves this Honorable Court to hold Rebecca Kbagbi and Deyka Williams Spencer in contempt of this Court for willful violation of the automatic stay provisions of Section 362(a). In support of said motion, the following would be shown unto Court:

The Debtor filed a petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Middle District of Tennessee on September 8, 2021. Rebecca Kbagbi, and Deyka Williams Spencer knew or should have known that the Debtor filed a petition for relief under the Bankruptcy Code.

The Debtor was only authorized under the budget approved by this Court in the Cash Collateral Order approved by this Court to pay employee wages for employees retained post-petition, which meant that the Debtor was not authorized to pay Ms. Kbagbi. On November 9, 2021, Deyka Spencer Williams sent the following letter to the counsel for the Debtor, as well as the Debtor's agent for process, which states in part, to wit:

This law firm has been retained by Ms. Rebecca Kbagbi to pursue claims of unpaid wages and retaliatory termination after she requested her unpaid wages for willful violations of the Maryland Wage and Hour laws, Md. Code Ann., Labor & Empl. §3-401 ("MWHL"), Maryland Wage Payment and Collection laws, Md. Code Ann. Labor & Empl. §3-501, Maryland Equal PayLaw, Md. Code Ann. Labor & Empl. §3-304.1, and the Fair Labor Standards Act (29 U.S.C. § 2-1 et. seq.) ("FLSA.")..... Ms. Kpagbi is requesting to be compensated for his unpaid work hours, flexible damages, and attorney's fees. At this point, she is interested in settling this matter to avoid further stress and the additional costs of litigation. A true and exact copy of the letter sent by Deyka Williams Spencer on behalf of Rebecca Kbagbi is attached hereto, marked Exhibit 1, and is incorporated herein by reference.

Said actions by REBECCA KBAGBI, AND DEYKA WILLIAMS SPENCER constitute a wanton and willful violation of the automatic stay and the provisions order of D.E. 214, notwithstanding notice of the Bankruptcy and the automatic stay provisions of Section 362(a).

BASED ON THE FOREGOING, the Debtor prays that be held in contempt of the automatic stay provisions of Section 362(a) of the Bankruptcy Code and that as appropriate sanctions, that the claim of REBECCA KBAGBI, AND DEYKA WILLIAMS SPENCER be deemed satisfied and paid in full, including against any co-obligor; (3) that REBECCA KBAGBI, AND DEYKA WILLIAMS SPENCER be required to pay all compensatory damages suffered by the Debtor; (3)

that the lien of REBECCA KBAGBI, AND DEYKA WILLIAMS SPENCER be deemed released and satisfied in full; (4) that REBECCA KBAGBI, AND DEYKA WILLIAMS SPENCER be assessed with the Debtor's reasonable attorney 's fees for pursuing this action; and that the Debtor have such other and further and general relief to which it would be entitled under the premises.

Respectfully submitted ,

/s/ Steven L. Lefkovitz
Steven L. Lefkovitz, BPR #5953
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Attorney for Debtor

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent to Timothy Niarhos, Assistant United States Trustee, by CM/ECF electronic filing, this the 9th day of November, 2021. Additionally, a copy of this pleading was sent to REBECCA KBAGBI, AND DEYKA WILLIAMS SPENCER, The Spencer Firm, LLC, 2275 Research Blvd., Suite 500, Rockville, MD 20850 by US Mail. Postage Prepaid, this the 9th day of November, 2021.

/s/ Steven L. Lefkovitz
Steven L. Lefkovitz